February 18, 2016

Reporting and Reconciliation Workgroup Discussion and Recommendations for March 2016 MSG Meeting

Project-level Reporting

The work group was tasked with discussing and determining a recommendation for the Implementation Sub-Committee for the definition of project-level reporting for the 2016 USEITI report.

Considerations:

- Proposed SEC Dodd-Frank Sec. 1504 language will define project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement or for multiple such agreements when they are operationally or geographically interconnected
- How does the SEC definition equate to the reporting of DOI revenues – currently at Company level
- Trade Secrets Act implications when going lower than company level

Discussion:

At the December 2014 MSG meeting the working group was given the responsibility to address compliance with Section 5.2e[1] for the 2016 report. The perspectives of the industry and civil society representatives in the working group are clear, but not reconcilable at this time.

The industry point of view is that the final rules for the implementation of Section 1504 have not yet been issued and; therefore, it is unwise to require project-level disclosure on a basis that may change in the coming months. Further, industry has specific issues with the project definition set out in December 11 SEC proposed rules, the EU law, and the Canadian law that are beyond the capacity of the working group to reconcile. As a result, industry believes it would be counter-productive to address project-level reporting at this time based on the definition set out by the relevant regulators.

The civil society point of view is that we have the elements necessary for project-level disclosure consistent with Section 5.2e and the definition set out in the December 11 proposed rules for Section 1504, the EU law, and the Canadian law. Project-level reporting done on the basis of consistency with Section 5.2e and, as a result, the December 11 Section 1504 rules, the EU law, and the Canadian law would support a global standard for payment transparency, which would enhance the value of the resulting disclosure and create greater certainty for

[1] "Reporting at project level is required, provided that it is consistent with the United States Securities and Exchange Commission rules and the forthcoming (added by working group: now enacted) European Union requirements."

reporting companies and regulators. If time and other considerations prevent project-level disclosure consistent with Section 5.2e in the 2016 report, we recommend committing publicly that subsequent reports will include project-level reporting consistent with the definition set out in the Section 1504 rules, EU law, and Canadian law.

The working group agrees that in order to provide guidance to the MSG in time for its March 8 meeting, the best course of action is to make a recommendation very similar to the one give for the 2015 report and to further explore compliance with Section 5.2e when the SEC has issued its final rules for the implementation of Section 1504.

Recommendation:

The recommendation of the Reporting and Reconciliation Workgroup is that the reconciled payment reporting of the 2016 USEITI should follow the first part of Section 5.2e of the EITI Standard that states: "It is required that EITI data is presented by individual company, government entity and revenue stream." We were unable to reach a consensus on a project-level reporting definition consistent with Section 5.2e in the necessary timeframe. It is recommended that the Implementation Subcommittee endorse this decision.

Revenue Streams

The work group was tasked with reviewing the revenue streams for the 2016 USEITI report.

Considerations:

- BOEM, BSEE, and BLM Cost Recovery Fees, BLM Rights-of-Way, and BLM Helium related revenues were scoped out for CY2013 revenue reconciliation purposes
- Discuss new Commodities such as Forestry

Discussion:

There was discussion about the revenue streams that would be included in the 2016 USEITI Report and what would be appropriate to include. The discussion covered the revenue streams currently included in the 2015 USEITI Report, revenue streams that were intentionally excluded from the 2015 USEITI Report (BOEM, BSEE, and BLM Cost Recovery Fees, BLM Rights-of-Way, and BLM Helium related revenues), as well potential new revenue streams (forestry revenues).

Recommendation:

The Reporting and Reconciliation Workgroup has agreed that the exclusion of the BOEM, BSEE, and BLM Cost Recovery Fees, BLM Rights-of-Way, and BLM Helium revenue is appropriate for the 2016 USEITI report based upon the same reasons that they were excluded from the 2015 USEITI Report. It is recommended that the Implementation Subcommittee endorse this decision. This decision is supported by the discussion at the January 21, 2015 Implementation Subcommittee meeting[2] that discussed these revenue streams and the reasons for exclusion and the January 28, 2015 subcommittee meeting[3] that approved the recommendations to be submitted to the MSG.

> "It was also recommended that the decision matrix be updated to reflect that Helium Sales, Helium Royalties, Cost Recovery Fees, and Rights of Way Fees will not be included in the report for reconciliation, but will instead be included in the Contextual Narrative."

Helium was excluded as a by-product of extraction that a limited number of companies collected, which could be a Trade Secrets Act issue, and not a significant source of revenue. Rights-of-Way and Cost Recovery Fees were discussed as not direct costs of extraction, but related to the extraction process. As a grey area that could be included in reconciliation, it was agreed that the contextual narrative would be a good fit for information for these revenue streams that would provide the best benefit to the report reader.

The workgroup has agreed that there needs to be further discussion and work done around the inclusion of additional revenue streams for the 2017 USEITI report. At this time, it is recommended that the Implementation Subcommittee not include any additional revenue streams for the 2016 USEITI report. This decision is based upon the fact that not enough is known about the sectors to make an MSG recommendation in March, and that for any to be added we would also need to have representatives of those sectors on the MSG. The workgroup also thinks USEITI would benefit from working for a second year on the same sectors

[2] https://www.doi.gov/sites/doi.gov/files/migrated/eiti/FACA/upload/Draft-Meeting-Summary_01-21-15.pdf
[3] https://www.doi.gov/sites/doi.gov/files/migrated/eiti/FACA/upload/Draft-Meeting-Summary_01-28-15.pdf

so the MSG can build on knowledge and understanding of the sectors and on the most effective way to report them. The workgroup does acknowledge the proposal submitted by Keith Romig regarding the inclusion of other metals (silver, zinc, lead, molybdenum) in the report and hope these proposals will prompt discussion on which commodities and revenue streams to include in future reports. Furthermore, other metals will be discussed for inclusion in the contextual narrative, but will not be included in reconciliation and reporting activities.

Reporting Template and Guidelines

The work group was tasked with discussing and determining a recommendation for the Implementation Sub-Committee for the Reporting Template and Guidelines for use with the 2016 USEITI report.

Considerations:

- Potentially revised DOI Revenue Streams
- Changes in Transactions – mainly ONRR Other Revenues: Direct Billed/Accounts Receivable and others as applicable

Discussion:

There was discussion about the ONRR Other Revenues. The discussion included the amount of work associated with the revenue stream as part of the 2015 USEITI report, the benefit associated with the workload for the revenue stream, and the transaction codes associated with the ONRR Other Revenues. The discussion had a focus upon activities that could reduce the amount of work associated with reconciling this revenue stream. Referenced during the discussion was the document titled *Data Collection and Reconciliation - Background Documentation - 20160205.docx*.

Discussion for reducing the work associated with the reconciliation of ONRR Other Revenues included raising the margin of variance percentage or floor threshold and reviewing the number of transaction codes to identify problematic transaction codes within the ONRR Other Revenues that make the process difficult due to billing or payment card issues that have been previously identified.

Further discussion occurred concerning which transaction codes may make sense to exclude from the ONRR Other Revenues for the 2016 USEITI report.

Discussion of the remaining revenue streams occurred as well. Based upon the amount of reconciliation work associated with the revenue streams, the number of variances that were explained in the 2015 USEITI Report, and the potential issues of changing variances year-over-year, it was decided that no change to the non-ONRR Other Revenue streams was needed.

Recommendation:

For the 2016 USEITI Report, no changes will be made to reporting template and guidelines that were submitted in the 2015 USEITI Report. It is recommended that the Implementation Subcommittee endorse this decision.

Company Materiality

The work group was tasked with discussing and determining a recommendation for the Implementation Sub-Committee for the level of materiality for inclusion in the 2016 USEITI report for reporting and reconciliation purposes, and for the CY data that would be used as part of the 2016 USEITI Report.

Considerations:

- Continue to use only ONRR revenues
- ONRR CY2013 Total Revenues of $12.4 billion
  - $50 million threshold, 45 Companies, 83% coverage
  - $20 million threshold, 77 Companies, 92% coverage
- ONRR CY2015 Total Revenues of $7.5 billion
  - $50 million threshold, 35 Companies, 77% coverage
  - $20 million threshold, 60 Companies, 87% coverage

Discussion:

The initial discussion point included the use of CY 2015 data. The workgroup agreed that the use of CY 2015 data would be a benefit to the process due to the fact that the data is more current. Using more current data can reduce an issue that was encountered during reconciliation for the 2015 USEITI Report which was the lack of data availability for companies that had merged or sold off a reporting entity. One drawback, which will occur this year, is that timing issues identified in the 2015 USEITI Report, using CY 2013 data, will not be able to be used to explain reconciliation difference due to timing. This is a one year issue only and is far outweighed by using more current data. Additionally, the unilateral data disclosure will include both CY 2014 and CY 2015 data, which will make the data available to the public in a way that preserves the continuity of the data year-over-year.

There was discussion about the dollar threshold to include companies in the reporting and reconciliation for the 2016 USEITI report. Referenced during the discussion was the document *Materiality Threshold References 020416a.docx*, which outlined factors to consider, including the EITI standard, past discussion and decisions by the MSG, and references to applicable law.

Also referenced was the spreadsheet *DOI Revenue Streams Discrepancy Rating Analysis for Margin of Variance - 20160201.xlsx* which listed and ranked the companies anonymously by ONRR reported revenues. Each of the above thresholds was discussed, along with the pros and cons of each. The discussion explicitly covered that the revenue thresholds were based only upon ONRR reported revenues, which for CY 2013 made up 96.1% of total DOI revenues from oil and gas and mining extraction of federal lands[4]. It is expected that similar coverage will occur for CY 2015 DOI revenues. The work group agreed that continuing year-over-year with the same method of company determination, specifically by using only ONRR reported revenues, was appropriate.

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[4] For CY2013, $12.64 billion of DOI revenues were unilaterally disclosed. The composition of those revenues was: ONRR 96.1%, BLM 2.3%, and OSMRE 1.6%.

The different inclusion thresholds, based on available CY 2015 data, are:

Threshold	Number of Companies	Cumulative Percent of Revenues Reported to ONRR
$50 Million	35	76.78%
$20 Million	60	87.01%
80% of Revenue	41	80.08%
90% of Revenue	74	90.04%

The work required and level of participation for the 2015 USEITI Report was discussed. Also discussed were the MSG decisions that have relevance to this discussion, such as those reflected in the USEITI Candidacy Application[5]:

> "The reconciliation process is intended to start at a level that will reconcile approximately 80% of all revenues within the scope received by DOI for the first year and to increase to 90% of such revenues in the second year."

And decisions made at the July 2013 MSG meeting[6]:

> "The MSG agreed to a reconciliation materiality threshold for companies that pay $50 million in revenues annually to ONRR, capturing 80% of revenues paid to ONRR in the first report, and a threshold of $20 million, capturing 90% in the second report. This will require voluntary participation by 40 companies and 63 payors in the first report, 70 companies and 117 payors in the second report. Points of note: achieving compliance in the First Year Report, MSG reviewing lessons learned and MSG reviewing company reach-out."

It was also pointed out that 31 of 44 companies that met the 2015 reporting threshold disclosed payments representing the reconciliation of $8.5 billion in company payments or roughly 70% of the Department's $12.6 billion in CY 2013 energy and mineral revenues[7]. In an effort to show progress relative to the 2015 report, the group decided maintaining the current reporting and reconciliation threshold is an important step to achieve for the 2016 USEITI report. An 80% threshold was used for the 2015 USEITI report; the workgroup decided that based on the company composition of 2015, the decisions of the MSG, and the outcomes of the 2015 report, that an 80% revenue threshold would be appropriate for the 2016 USEITI report. This will help to build confidence in the process with companies included in multiple years and hopefully drive further participation by companies that are identified for inclusion. Current market

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[5] https://www.doi.gov/sites/doi.gov/files/migrated/eiti/FACA/upload/USEITI-MSG-Approved-Application_12-12-13.pdf

[6] https://www.doi.gov/sites/doi.gov/files/migrated/eiti/FACA/upload/USEITI-July-2013-Meeting-Summary_FINAL-140617.pdf

[7] https://www.doi.gov/pressreleases/interior-department-launches-data-portal-detailing-us-extractive-industries

conditions would make it incrementally more difficult to attract voluntary participation from smaller companies which are struggling to survive in this prolonged low-price environment.

Recommendation:

The Reporting and Reconciliation Workgroup agreed that using CY 2015 data for reporting and reconciliation as part of the 2016 USEITI Report is appropriate based on the fact that CY 2014 and CY 2015 data will be unilaterally disclosed on the Data Portal. It is recommended that the Implementation Subcommittee endorse this decision.

The workgroup has agreed that companies should be considered in-scope and their submitted payments will be reconciled if they are part of the top 80% of revenue reported to ONRR for CY 2015. This will include 41 companies with a revenue threshold of $37 million or more reported to ONRR in CY 2015. It is recommended that the Implementation Subcommittee endorse this decision.

Sampling

The work group was tasked with discussing and determining a recommendation for the Implementation Sub-Committee for the use of sampling for reconciliation as part of the 2016 USEITI Report.

Considerations:

- The IA's sampling recommendation/example for CY2015 revenues:
    - For a $50 million threshold (35 companies), the *minimum* sample size would be 7 companies
    - For a $20 million threshold (60 companies), the *minimum* sample size would be 12 companies
    - Strata and *actual* sample size would be adjusted based on the judgement and guidance of the sub-committee/MSG

Discussion:

The workgroup discussed the possibility of sampling as part of the 2016 USEITI report for non-tax revenue streams. During the discussion, the document *USEITI Sampling Methodology - Initial Discussion - 20160113.docx* that was presented to the Implementation Subcommittee was referenced by the IA. It was not presented in detail to the workgroup. In conjunction with the unilateral disclosure, the IA stated sampling may provide an opportunity to reduce some amount of effort from the reconciliation process without diminishing the reporting of data from in-scope companies. The discussion referenced the 2015 USEITI Report reconciliation results which yielded no unexplained discrepancies. The discussion also referenced the need for methodological consistency between the 2015 and 2016 reports and the degree to which sampling is outside the norm of EITI processes. Overall, the idea of sampling is a worthwhile discussion topic to the Reporting and Reconciliation Workgroup, but the level at which the sample is to be drawn has not yet been determined. One workgroup member suggested that we might "dip our toe" in sampling in the 2016 report to determine its usefulness to the process.

The IA proposed further discussion around sampling should take place that identifies an appropriate sample size which will be based on appropriate sampling guidelines and professional judgement. This will result in a sample size that is well above the minimum sample size required for reasonable assurance of the reported data. The CSO members of the workgroup suggest that decisions necessary to meeting the 3/8 and other deadlines for the 2016 USEITI Report take place before further discussions of sampling.

Recommendation:

The reporting and reconciliation work group does not recommend sampling as the basis for reconciliation for the 2016 report. However, the IA will use 2016 data to explore the benefits and methodology of sampling that may be used in subsequent USEITI Reports and share those results with the working group and implementation subcommittee.

Margin of Variance

The work group was tasked with reviewing the Margin of Variance for the 2016 USEITI report.

Considerations:

- Discuss cost vs. benefit of reconciling ONRR Other Revenues and BLM Permit Fees (these revenue streams would still be included in total ONRR revenues for determining which companies to reconcile)
    - Total ONRR Other Revenues (CY 2013) = $59,171,106
    - Total BLM Permit Fees (CY 2013) = $25,429,599
- Discuss Margin of Variance changes for all in-scope Revenue Streams for reconciliation

Discussion:

There was discussion about both the ONRR Other Revenues and BLM Permit Fees. The discussion has included the amount of work associated with each of the revenue streams as part of the 2015 USEITI report, the benefit associated with the workload for the revenue streams, and the transaction codes associated with the ONRR Other Revenues. The discussion had a focus upon activities that could reduce the amount of work associated with reconciling these revenue streams while maintaining the consistency and value of the report. Referenced during the discussion was the document titles *Data Collection and Reconciliation - Background Documentation - 20160205.docx*.

Discussion for reducing the work associated with the reconciliation of both the ONRR Other Revenues and BLM Permit Fees included raising the margin of variance percentage or floor threshold and reviewing the number of transaction codes to identify problematic transaction codes within the ONRR Other Revenues that make the process difficult due to billing or payment card issues that have been previously identified. Unfortunately, evaluation of actual 2015 reporting and reconciliation data showed that reconciliation volume was not very sensitive to changes in the margin of variance and that order of magnitude adjustments would need to be imposed to have material effect.

Discussion occurred concerning which transaction codes may make sense to exclude from the ONRR Other Revenues for the 2016 USEITI Report before a decision on changing the margin of variance percentage or threshold is made. Upon further discussion, it was decided that for the 2016 USEITI Report that no changes will take place, but the fact that a large reconciliation workload occurred in the 2015 USEITI Report for this revenue will be included in USEITI write-up. If the same amount of effort, with no unexplained variances, occurs again as part of the 2016 USEITI Report, the recommendation is to remove direct billed activity from the ONRR Other Revenues for the 2017 USEITI Report.

For the BLM Permit Fees revenue stream, the Government has identified new information fields (collection date and well/property identifier) that are now included in the available data, which should help to resolve the issues that occurred during the 2015 USEITI Report reconciliation process.

<u>**Recommendation:**</u>

The Reporting and Reconciliation Workgroup has agreed that the inclusion of new information fields for the BLM Permit Fees should resolve many of the reconciliation issues that occurred as part of the 2015 USEITI Report reconciliation process and added to the amount of time necessary to complete the reconciliations.

The workgroup has also agreed that for the 2016 USEITI Report, that most reporting companies will have additional knowledge from one year of participation, which may reduce the reconciliation workload associated with the ONRR Other Revenues revenue stream. A note should be added to the 2016 USEITI Report that significant time was observed as part of the reconciliation of this revenue stream as part of the 2015 USEITI Report, and if the same occurs in 2016, that direct billed activity should be removed from the ONRR Other Revenues for reconciliation purposes.

It is recommended that no changes be made to the Reporting Template and Guidelines and the Margin of Variance percentages and Floor Thresholds. It is recommended that the Implementation Subcommittee endorse this decision.